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**STATE BOARD OF EQUALIZATION**

September 1, 1953

E. A. J--- & Co.  
XXXX --- --- Drive  
--- --- XX, California

Attention: Mr. E--- J---

Gentlemen:

A reply to your letter of March 25, 1953, was deferred pending action by the Board on petitions for redetermination filed by certain cooling tower manufacturers and contractors who contended that they should be regarded as sellers of "fixtures" even as to the larger towers, rather than as consumers under Sales and Use Tax Ruling 11 of "materials" as these terms are defined therein.

The Board held that the towers were not "fixtures", and that the tax applies, accordingly, to the sale to the installing contractor of the materials entering into the construction or erection of the towers.

Thus we confirm your understanding "that in the manufacture and construction of cooling towers and large size water tanks, either on concrete foundations or upon specially built towers, which are affixed to realty, we are the consumers of materials at cost and are responsible for the tax on such cost price".

You further inquire concerning the status of smaller tanks and enclose a price sheet showing the various sizes. Size alone cannot be regarded as determinative of whether the tanks have the status of "fixtures". You state they are all placed in position and connected to other realty by plumbing connections. In general, if the tanks are prefabricated, there being no labor or construction, erection, or assembly on the site of installation, the only labor performed there being the attaching of the tanks to realty by plumbing connections, bolts, etc., we believe the tanks should be regarded as "fixtures."

Very truly yours,

E. H. Stetson  
Tax Counsel

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